

REMARKS

This is a submission for action in association with a Request for Continued Examination filed herewith and in response to the Office Action mailed on August 28, 2002. Applicant notes that a petition for a three-month extension of time is attached hereto along with a check to cover the fee for such an extension. A fee to cover the Request for Continued Examination is enclosed herewith as well. If a further fee is due, authorization is hereby given to charge any fees in connection with the subject patent application to Deposit Account No. 23-0920. Further, if the attached petition is deficient in any way Applicant requests that this paper be considered as a substitute petition and that any required fee be charged to the above-noted Deposit Account.

The Office Action has objected to the abstract of disclosure for its use of the word "easy", Applicant has amended the application by deleting the abstract of the disclosure and substituting, therefore, a new Abstract of the Disclosure. Applicant has removed the word "easy" and has put the abstract of the disclosure in better form. The Office Action notes that the proposed corrected drawings are acceptable and requests corrected drawings. Corrected drawings are enclosed herewith.

Claims 1-18 have been rejected under 35 U.S.C. § 112, as being indefinite. Applicant has amended claims 1, 9 and 15 to remove those elements to which the Office Action refers as causing the indefiniteness. It is respectfully submitted that as amended the claims are definite in scope and understanding.

Claims 1 –18 have been rejected, under 35 U.S.C. §102(b) based on public use or sale of the invention. Applicant notes that the use of the invention, as noted in its Information Disclosure Statement, was under conditions of strict privacy and accessible only to Applicant's immediate family. Applicant constructed and installed the device in the walk-in closet of his

bedroom. The device was removed from that location only to make the photographs included with the Information Disclosure Statement of the present application. No one, except Applicant's family, who are in privity with Applicant, had access to Applicant's closet or to the device disclosed in the Information Disclosure Statement. The use of the term "displayed" in the Information Disclosure Statement was inadvertent and no display, other than to family members in privity with Applicant was made. Further, the disclosed item, included with the Information Disclosure Statement of the present invention, is an early prototype of a different invention, which is significantly different than the device of the present invention. Applicant earnestly requests that the public use or sale rejection be withdrawn.

Claims 1, 4, 5, 8, 9 and 12 have been rejected, under 35 U.S.C. §102(b), as being anticipated by Rumble (3,938,665). As previously noted, the storage and display tower of Rumble is designed to prohibit the easy and continuous removal of articles, which, in Rumble, are cassette tapes in a point of purchase display case. The disclosure of Rumble teaches that articles displayed therein are to be locked up and are generally inaccessible without following a number of steps including, unlocking the tower, rotating the outer structure to displace the end closure elements and then withdrawing the desired article. Further, the user of the Rumble tower must then replace the end closure elements and lock the tower prior to proceeding to using, or selling, the item retrieved therefrom. It is submitted that without the replacement of the locking means on Rumble, the device of Rumble would not permit the easy inspection of the cassettes, due to the interference of the locking means structure with the display means. Further, as noted in column 1, lines 11-16 "The present invention has as its main object the provision of an improved display unit, the construction of which enables cassettes to be stored for ready inspection as to their content, *but which prevents the unauthorized removal of the cassettes from*

the unit by the customer." Rumble does not permit the removal of items for inspection through a continuously opened aperture as claimed in the present invention. In sharp contrast to Rumble, the device of the present invention, as now claimed, has no end closure elements, is not lockable and is clearly designed to permit a user to store and view articles while having open and unobstructed access to the articles.

Claims 2, 3, 10 and 11 have been rejected, under 35 U.S.C. § 103(a) as being obvious over the combination of Rumble ('873) in view of Gioscia (5,568,873). Since Gioscia does not provide a tower with easy and continuous access, which is missing in Rumble, its combination with Rumble cannot make obvious the claims having such limitations therein. Accordingly, Applicant believes claims 2, 3, 10 and 11 are not obvious. Further, because of the designed and built in added difficulties in removing objects from the device of Rumble, no single reference, that merely adds the ability to rotate about an axis, would make the present invention obvious in view of Rumble. It is submitted that the device of Rumble was created (application filed December 13, 1973) at a time when the only security for such items was a lock and key. Music stores, and other vendors, could be robbed of a relatively small music cassette by the mere placement of the cassette in a pocket and removal from the store. Today, vendors use electronic marking systems, which cause alarms to sound if the cassette or CD is removed from the store, and locking means are no longer so needed. As such persons having skill in the art would not look to antiquated and failed security systems to develop, alone or in combination with other art, the device of the present invention.

Claims 1, 2, 4-10, 12-15, 17 and 18 have been rejected, under 35 U.S.C. § 103(a) as being obvious over the combination of Rumble ('873) in view of Guignard et al. (2,738,075); and claim 16 has been rejected over the combination of Rumble and Guignard et al. in view of

Patterson 3,997,050). As presently amended the additions of the teachings of Guignard et al. and/or Patterson, do not provide those elements missing from Rumble to teach the device of the present invention.

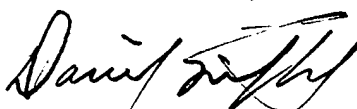
Applicant notes with appreciation that the prior 102(b) rejection based on Guignard et al. has not been continued in the present Office Action.

Applicant hereby respectfully requests continued prosecution, reconsideration and reexamination. A sincere effort has been made to overcome the Examiner's rejections and to place the application in allowable condition. Applicant invites the Examiner to call applicant's attorney to discuss any aspects of the invention that the Examiner may feel are not clear or which may require further discussion.

With the above amendments and remarks, Applicant believes this application to be ready for allowance and earnestly solicits an early Notice of Allowance

Respectfully submitted,

WELSH & KATZ, LTD.



Daniel M. Gurfinkel
Registration No. 34,177

October 3, 2003
WELSH & KATZ, LTD.
120 South Riverside Plaza - 22nd Floor
Chicago, IL 60606
Phone: (312) 655-1500
Fax: (312) 655-1501

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop PCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date.

10/3/03

Date

34,177

Registration No. 34,177
Attorney for Applicant(s)